

**BOARD OF ELECTIONS AND ETHICS  
CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in eleven (11) Advisory Neighborhood Commission offices, certified pursuant to D.C. Code §1-309.06(d) (2) [(2001 Ed.)].

**VACANT:**        **3D07, 3D08**  
                      **5C10, 5C11**  
                      **6B11**  
                      **8B03, 8C05, 8C06**

Petition Circulation Period: **Wednesday, June 18, 2003 thru Tuesday, July 8, 2003**  
Petition Challenge Period: **Friday, July 11, 2003 thru Thursday, July 17, 2003**

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**VACANT:**        **4A05**  
                      **8E01**

Petition Circulation Period: **Tuesday, June 24, 2003 thru Monday, July 14, 2003**  
Petition Challenge Period: **Thursday, July 17, 2003 thru Wednesday, July 23, 2003**

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**VACANT:**        **3E05**

Petition Circulation Period: **Monday, July 7, 2003 thru Monday, July 28, 2003**  
Petition Challenge Period: **Thursday, July 31, 2003 thru Wednesday, August 6, 2003**

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Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics**  
**441 - 4<sup>th</sup> Street, NW, Room 250N**

For more information, the public may call 727-2525.

D.C. Office of the Deputy Mayor for Public Safety and Justice  
Justice Grants Administration  
Email: [fundingalert@dc.gov](mailto:fundingalert@dc.gov)

### **Public Notice of Funding Availability**

#### **Byrne Formula Block Grant Program**

## **District Opportunities**

**Byrne Formula Block Grant Program.** *The DC Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration* announces the availability of federal grant funds under the 2002 Byrne Formula Block Grant program, which includes program areas that address drug control, violent and serious crime, all aspects of criminal justice processing (including incarceration and treatment of offenders), and general improvements in the Justice operations. Eligible applicants include nonprofit or local government agencies. The Request for Applications (RFA) will be available at 9:00 a.m. on Monday, June 30, 2003, and may be picked up at the front desk of the Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration, 1350 Pennsylvania Avenue, NW, Suite 327, Washington, DC 20004. The deadline for applications is 5:00 p.m. on Thursday, July 31, 2003. For more information, contact Phyllis McKinney, Program Manager, Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration at (202) 727-1700 or [phyllis.mckinney@dc.gov](mailto:phyllis.mckinney@dc.gov).

**Local Law Enforcement Block Grant.** *The DC Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration* announces the availability of federal grant funds under the Local Law Enforcement Block Grant for 2002 for programs in the following purpose areas: 1) Support Law Enforcement; 2) Enhance Security Measures; 3) Establish or Support Drug Courts; 4) Enhance the Adjudication of Cases Involving Violent Offenders; 5) Establish Multi-jurisdictional Task Forces; 6) Establish Crime Prevention Programs; 7) Defray the Cost of Indemnification Insurance for Law Enforcement Officers. Eligible applicants include nonprofit or local government agencies. The Request for Applications (RFA) will be available at 9:00 a.m. on Monday, June 30, 2003, and may be picked up at the front desk of the Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration, 1350 Pennsylvania Avenue, NW, Suite 327, Washington, DC 20004. The deadline for applications is 5:00 p.m. on Thursday, July 31, 2003. For more information, contact Phyllis McKinney, Program Manager, Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration at (202) 727-1700 or [phyllis.mckinney@dc.gov](mailto:phyllis.mckinney@dc.gov).

Government of the District of Columbia  
D.C. Office of the Deputy Mayor for Public Safety and Justice  
Justice Grants Administration  
Email: [fundingalert@dc.gov](mailto:fundingalert@dc.gov)

### **Public Notice of Funding Availability**

#### **Title V Delinquency Prevention Incentive Grants**

## **District Opportunities**

**Title V Delinquency Prevention Incentive Grants.** *The DC Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration* announces the availability of federal grant funds under the 2003 Title V Delinquency Prevention Incentive Grants Program. The goal of this program is to reduce delinquency and youth violence by supporting communities in providing their children, families, neighborhoods, and institutions with the knowledge, skills, and opportunities necessary to foster a healthy and nurturing environment that supports the growth and development of productive and responsible citizens. Eligible applicants include only units of general local government. The Request for Applications (RFA) will be available at 9:00 a.m. on Monday, June 30, 2003, and may be picked up at the front desk of the Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration, 1350 Pennsylvania Avenue, NW, Suite 327, Washington, DC 20004. The deadline for applications is 5:00 p.m. on Thursday, July 31, 2003. For more information, contact Bryan Criswell, Program Manager, Office of the Deputy Mayor for Public Safety and Justice/ Justice Grants Administration at (202) 727-0957 or [bryan.criswell@dc.gov](mailto:bryan.criswell@dc.gov).

**Title II Juvenile Justice Grants.** *The DC Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration* announces the availability of federal grant funds under the 2003 Title II Juvenile Justice Grants Program. This program supports delinquency prevention and intervention efforts and juvenile justice system improvements. Eligible applicants include units of general local government, District of Columbia agencies or qualified community-based organizations located in the District of Columbia. The Request for Applications (RFA) will be available at 9:00 a.m. on Monday, June 30, 2003, and may be picked up at the front desk of the Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration, 1350 Pennsylvania Avenue, NW, Suite 327, Washington, DC 20004. The deadline for applications is 5:00 p.m. on Thursday, July 31, 2003. For more information, contact Bryan Criswell, Program Manager, Office of the Deputy Mayor for Public Safety and Justice/ Justice Grants Administration at (202) 727-0957 or [bryan.criswell@dc.gov](mailto:bryan.criswell@dc.gov).

**Juvenile Justice Challenge Activities Grants.** *The DC Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration* announces the availability of federal grant funds under the 2003 Challenge Activities Grants Program. This program provides incentives to develop, adopt, and improve policies and programs in one or more of ten specified Challenge Activities. Descriptions of the ten Challenge Activities can be found at the following Web site: <http://www.ojjdp.ncjrs.org/grants/jjgench.htm>. Eligible applicants include units of general local government, District of Columbia agencies or qualified community-based organizations located in the District of Columbia. The Request for Applications (RFA) will be available at 9:00 a.m. on

Monday, June 30, 2003, and may be picked up at the front desk of the Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration, 1350 Pennsylvania Avenue, NW, Suite 327, Washington, DC 20004. The deadline for applications is 5:00 p.m. on Thursday, July 31, 2003. For more information, contact Bryan Criswell, Program Manager, Office of the Deputy Mayor for Public Safety and Justice/ Justice Grants Administration at (202) 727-0957 or [bryan.criswell@dc.gov](mailto:bryan.criswell@dc.gov).

**Grants to Encourage Arrest Policies.** *The DC Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration* announces the availability of federal grant funds under the 2003 Grants To Encourage Arrest Policies Program. This program enhances victim safety and offender accountability in cases of domestic violence and dating violence intervention that is part of a coordinated response. Applicants must be non-profit, non-governmental victim advocacy agencies/organizations that are located in the District of Columbia. The Request for Applications (RFA) will be available at 9:00 a.m. on Monday, June 30, 2003, and may be picked up at the front desk of the Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration, 1350 Pennsylvania Avenue, NW, Suite 327, Washington, DC 20004. The deadline for applications is 5:00 p.m. on Thursday, July 31, 2003. For more information, contact Bryan Criswell, Program Manager, Office of the Deputy Mayor for Public Safety and Justice/ Justice Grants Administration at (202) 727-0957 or [bryan.criswell@dc.gov](mailto:bryan.criswell@dc.gov).

Government of the District of Columbia  
D.C. Office of the Deputy Mayor for Public Safety and Justice  
Justice Grants Administration  
Email: [fundingalert@dc.gov](mailto:fundingalert@dc.gov)

### **Public Notice of Funding Availability**

#### **VICTIMS' ASSISTANCE FUND**

## **District Opportunities**

**VICTIMS' ASSISTANCE FUND.** The DC Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration announces the availability of grant funds under the 2003 Victims Assistance Fund Grant program, which includes program areas that address **women and children, special population, homicide victims, and robbery and assault.**

- ☐ **Women and Children.** Funding under this category provides for programs and services that benefit women and children who are victims of violent crimes.
- ☐ **Special Populations.** Funding under this category provides for programs and services that target underserved or un-served populations. Includes but is not limited to: services for deaf, mute, and blind victims of crime, the gay/lesbian/bisexual trans-gendered victims of crime community, populations who face language barriers, services for elders, and services for those with mental incapacities who are victims of crime.
- ☐ **Homicide Survivors.** Funding under this category provides for programs and services that focus on the survivor or co-victim of homicide in the District of Columbia.
- ☐ **Robbery/Assault.** Funding under this category provides for programs and services that target neighborhood crime prevention initiatives.

Awards will be made for a grant period of one year, beginning October 1, 2003 and ending September 30, 2004. **Awards will be made on a cost reimbursement basis. Selected applicants will be reimbursed for the costs of their program during the stated grant period.**

Eligible applicants include qualified nonprofit or community based organizations. The Request for Applications (RFA) will be available at 9:00 a.m. on Monday, June 30, 2003, and may be picked up at the front desk of the Office of the Deputy Mayor for Public Safety and Justice/Justice Grants Administration, 1350 Pennsylvania Avenue, NW, Suite 327, Washington, DC 20004. The deadline for applications is 5:00 p.m. on Thursday, July 31, 2003. For more information, contact Ebonee Price, Program Manager, Office of the Deputy Mayor for Public Safety and Justice/ Justice Grants Administration at (202) 727-1700 or [ebonee.price@dc.gov](mailto:ebonee.price@dc.gov).

Office of the Secretary of the  
District of Columbia

June 19, 2003

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after July 15, 2003.

Achille, Kathleen A.	New	Dept/Veterans' Affairs 810 Vt Ave,NW 20420
Ayodeji, Muriel	Rpt	New Concept Realty Serv 1200 Kennedy St,NW 20011
Alston, Jacqueline	New	Dept/Motor Vehicles 301 C St,NW#1018 20001
Alvarez, Marina	New	Los Angeles Times 1875 I St,NW#1100 20006
Anderson, Gail M.	New	Miller & Chevalier 655 15 <sup>th</sup> St,NW#900 20005
Argente, Liezl C.	New	Kass Mitek & Kass 1050 17 <sup>th</sup> St,NW#1100 20036
Batey, Sherri Lynn	New	Source Office Suites 1050 17 <sup>th</sup> St,NW#600 20036
Battad, Abigail M.	New	Wright & Co. 1400 I St,NW#1100 20005
Botsford, Linda	New	FDIC Fed Credit Union 1776 F St,NW 20429
Brewer, Keith J.	New	W R A M C/O C J A 6900 Ga Ave,NW 20307
Buchanan, Wendy	New	Washington Hospital Ctr 110 Irving St,NW 20010

Butler, Nancy	New	World Space Corporation 2400 N St,NW 20037
Calito, Marco A.	New	Kriegsfeld Corporation 4301 Conn Ave,NW#132 20008
Coic, Angel M.	New	Boies Schiller & Flexner 5301 Wisc Ave,NW 20015
Cupeles, Victor M.	New	Chevy Chase Bank 701 Pa Ave,NW 20004
Darby, Christopher B.	New	Universal Title 1350 Conn Ave,NW#1020 20036
Dennis, Latasha Y.	New	Philllips & Green 2600 Va Ave,NW#604 20037
Desormeaux, Kimberlee N.	New	Valu Insurance Agency 3617 12 <sup>th</sup> St,NE 20017
Dhanoolal, Carol C.	New	Smith Barney 1050 Conn Ave,NW#800 20036
Diaye, Mariam N.	New	Chevy Chase Bank 701 Pa Ave,NW 20004
Duncan, Theresia	Rpt	Esquire Deposition Serv 1020 19 <sup>th</sup> St,NW#620 20036
El-Mahmoud, Grace L.	New	Pederson & Freedman 2001 L St,NW#601 20036
Fleming, Kenneth E.	New	407 34 <sup>th</sup> St,NE 20019
Frederick, Peter S.	New	CitiBank 1400 G St,NW 20005
Green, Anna L.	Rpt	Holland & Knight 2099 Pa Ave,NW 20006

Hall, Earnest	New	Ballard Spahr et al 601 13 <sup>th</sup> St,NW#1000S 20005
Hutton, Julie	New	Wachovia Bank 4841 Mass Ave,NW 20016
Jimenez, Manuel D.	New	4201 Mass Ave,NW#A343 20016
Johns, Yolanda	New	Century Gen Contractors 1017 Brentwood Rd,NE 20018
Jones, Thelma D.	Rpt	328 N St,SW 20024
Jones-Clad, Carmen	New	C Q Press 1255 22 <sup>nd</sup> St,NW 20037
Kelley, JaVanda D.	New	Wallace King et al 1050 TJeff St,NW#500 20007
Kopcik, Corinne	New	Pederson & Freedman 2001 L St,NW#601 20036
Lancaster, Edna B.	Rpt	Business & Community Asst 1250 Md Ave,SW#C10 20024
Llubien, Joseph	New	Bancroft Elementary Sch 1755 Newton St,NW 20010
McDermott, Patricia J.	New	Asbill Moffitt Boss 1615 N H Ave,NW 20009
Maxley, Eugenia	Rpt	O'Melveny & Myers 555 13 <sup>th</sup> St,NW#500W 20004
Mazer, Robyn S.	New	Source Office Suites 1050 17 <sup>th</sup> St,NW#600 20036
Miles,Sr., Paul L.	New	Admin Office/U S Courts 1 Columbus Circle,NE 20544



Miller, LaVerne	New	Miller Copying Service 1111 17 <sup>th</sup> St,NW 20001
Neher, James	New	327 13 <sup>th</sup> St,SE 20003
Nguyen, Thanh	New	F D I C Fed Credit Union 1776 F St,NW 20429
O'Leary, Timothy J.	New	Attorney at Law 1101 17 <sup>th</sup> St,NW#201 20036
Paulo, Tsige	New	E C D C 2437 15 <sup>th</sup> St,NW 20009
Perry, Rebecca	New	Shiffman & Ricci 1700 Pa Ave,NW#560 20006
Powell, Linda L.	New	Hastings Development Corp 1555 ConnAve,NW#509 20036
Presswood, Sandra E.	New	116 Q St,NW 20001
Puangmaly, Anora D.	New	CitiBank 1400 G St,NW 20005
Ridgeway, Vanessa A.	New	Mayer Brown Rowe Maw 1909 K St,NW 20006
Roberts-Williams, Carmenlita S.	Rpt	1009 Decatur St,NE 20017
Rogers, Louis E.	New	33 Crittenden St,NW 20011
Ryan, Maureen B.	New	Wash Hosp Ctr/Guest Serv 110 Irving St,NW 20010
Simpkins, Marcia C.	Rpt	Wachovia Securities 2300 M St,NW#700 20037

Steele, Blanche E.	New	Bank Fund Staff F C U 2121 Pa Ave,NW 20433
Stevenson, Sharon V.	New	Jackson Kelly 2401 Pa Ave,NW#400 20037
Stracke, Shandi L.	New	N B C C 1707 L St,NW#1060 20036
Theroux, Susan L.	New	Dept/Veterans' Affairs 810 Vt Ave,NW 20420
Thomas, Ademola J.	New	Wash Hosp Ctr/Guest Serv 110 Irving St,NW 20010
Watson, Sharon A.	Rpt	Bennett Boskey 1800 Mass Ave,NW#600 20036
Welch,Jr., Dewey L.	New	The Business Roundtable 1615 L St,NW#1100 20036
Wiggins, Amily	New	Bank Fund Staff F C U 1818 H St,NW#MCC2-300 20433
Wilkerson, Nina M.	New	Chevy Chase Bank 1800 M St,NW 20036
Williams, Gary Lee	New	Office of Tax & Revenue 941 N Cap St,NE#800 20002
Woodard, Latreia Y.	New	Law Office/Deborah Boddie 1308 9 <sup>th</sup> St,NW 20001
Woodland, Bianca	New	Natl Fish & Wildlife 1120 Conn Ave,NW#900 20036
Woods, Linda Sue	New	Hale & Dorr 1455 Pa Ave,NW 20004
Wright, Kemery A.	New	3822 V St,SE 20020

Wysocki, Susan N.	New	Glazer & Siegel 5301 Wisc Ave,NW 20015
Yancey, Timothy R.	New	M A R Reporting Group 1717 K St,NW#600 20036
Yi, Chang S.	New	First Union Bank 444 N Cap St,NW 20001

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 16861-A of Ingleside at Rock Creek**, pursuant to 11 DCMR § 3104.1, for a special exception to include additional property for use as recreation space, meeting room, and guest rooms for family members and guests visiting an existing community residence and health care facility under sections 218 and 219, in an R-1-A District at premises 5121 Broad Branch Road, N.W. (Square 2285, Lots 3, 4, 803, and Square 2287, Lot 808).

**HEARING DATE:** April 30, 2002

**DECISION DATE:** April 30, 2002

**CORRECTED SUMMARY ORDER**

Note: The approved use and occupancy of the subject property under BZA Order No. 16861, is dependant upon the alteration of a structure to comply with accessibility and life safety requirements. As such, this order has been corrected to extend its validity period from 6 months to 2 years pursuant to Section 3130 of the Zoning Regulations.

**SELF - CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3G, and to the owners of property within 200 feet of the site. The application was also referred to the Office of Planning for review and report.

The site of this application is located within the jurisdiction of ANC 3G. ANC 3G, which is automatically a party to this application submitted a letter in conditional support of the application. The Office of Planning submitted a report in conditional support of the application. The Department of Transportation submitted a report stating no objection to the application. Anne M. Renshaw testified as an individual at the public hearing, having recused herself from the Board deliberations.

As directed by 11 DCMR § 3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception from the strict application of the requirements of 11 DCMR §§ 3104.1, 218 and 219. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, for a special exception under sections 218 and 219, which will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS**:

1. There shall be no rental to or use of the building by groups that are not related to Ingleside, except that community organizations such as Advisory Neighborhood Commission 3G may use the building up to a total of four times per year.
2. Large events shall be limited to one per month. Large events shall be defined as events involving 75 or more attendees, the majority of whom are not residents of Ingleside. The Ingleside security personnel shall be responsible for managing any parking demands associated with an event to insure that there is no spillover parking in the neighborhood.
3. The maximum occupancy of the building for any event at any time shall be 150.
4. The guest apartments shall be available only for family and friends of residents of Ingleside. The maximum stay shall be one week. In the event of extenuating circumstances, the maximum stay limit may be waived.

Pursuant to 11 DCMR 3101.6, the Board has determined to waive the requirement of 11 DCMR 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

**VOTE:**      **4-0-1**      (Carol J. Mitten, Curtis L. Etherly, Jr., Geoffrey H. Griffis, and David W. Levy to Approve, Anne M. Renshaw not participating, not voting, having recused herself).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member has approved the issuance of this order.

**FINAL DATE OF ORDER:**   JUN 25   2003

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

rsn

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 16958 of D.C. Government Department of Public Works,** pursuant to 11 DCMR § 3104.1, for a special exception to allow improvements, including the addition of a recycling and drop-off center, to an existing solid waste transfer facility under subsection 822.3, in the M District at premises 3200 Benning Road, N.E. (Parcel 169/111).

**HEARING DATE:** April 22, 2003

**DECISION DATE:** April 22, 2003 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7D, which is automatically a party to this application. ANC 7D did not participate in the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under § 822.3. No persons or entities appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 822.3, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

BZA APPLICATION NO. 16958

PAGE NO. 2

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

**VOTE:**        4-0-1        (Geoffrey H. Griffis, Anthony J. Hood, Curtis L. Etherly, Jr., and David A. Zaidain to approve, the third mayoral appointee not present, not voting).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** JUN 25 2003

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Appeal No. 16990 of American Towers, Inc.** pursuant to 11 DCMR §§ 3100 and 3101, from the administrative decision of the Acting Director of the Department of Consumer and Regulatory Affairs (DCRA) rescinding Building Permits Nos. B425271, 420358, 429362, et al., relating to the construction of an antenna tower in a C-2-B District at premises 4623 41st Street, N.W. (Square 1769, Lots 20 and 30).

**HEARING DATE:** April 29, 2003  
**DECISION DATE:** April 29, 2003

**ORDER**

**PRELIMINARY AND PROCEDURAL MATTERS:**

On January 10, 2003, American Towers, Inc.<sup>1</sup> ("American Towers") filed this appeal with the Board of Zoning Adjustment ("Board" or "BZA"). The appeal states that it challenges an October 5, 2000 administrative decision by the Acting Director of the Department of Consumer and Regulatory Affairs ("DCRA") to rescind and cancel building permits for construction of an antenna tower at 4623 41st Street, N.W. Exh. 1.

By letter dated January 14, 2003, American Towers requested that the Board stay the proceedings pending resolution of related judicial proceedings. Exh. 15. On January 30, 2003, DCRA filed a motion for dismissal of the appeal as untimely. Exh. 16. The Board then scheduled a hearing on the appeal for April 29, 2003, with DCRA's motion for dismissal to be considered as a preliminary matter. Exh. 17-21. On April 24, 2003, DCRA filed an opposition to American Towers' request for a stay. Exh. 23. On April 25, 2003, American Towers filed its opposition to DCRA's motion for dismissal and renewed its earlier request for a stay. Exh. 24.

The Advisory Neighborhood Commission for the subject property, ANC 3E, did not file a statement on the appeal. Exh. 25.

On April 29, 2003, the Board heard argument from DCRA and American Towers on DCRA's motion for dismissal and American Towers' request for a stay. At the conclusion of the argument, the Board voted 3-0-2 to grant the motion for dismissal.

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<sup>1</sup> Appellant in this case is American Towers, Inc. Exh. 1. Attached to the Appeal is a permit application (B425271) that listed American Tower Systems as the property owner. Exh. 4. For purposes of this appeal, the Board will assume that American Towers, Inc. is an aggrieved party.

**FINDINGS OF FACT:**

1. On March 18, 1999, American Tower Systems applied to the Building and Land Regulation Administration (DCRA) for a permit for construction at 4623 41st Street, N.W., of an antenna tower and two T.V. antennas with an "[o]verall height" of 756 feet. Exh. 4. On March 13, 2000, the Building and Land Regulation Administration issued Building Permit No. B425271 to American Tower Systems for construction of the proposed antenna tower and T.V. antennas. Exh. 6.

2. On September 18, 2000, Jill Diskan filed an appeal with the Board from two earlier administrative decisions of the Zoning Administrator relating to the proposed construction of a tower at 4623 41st Street, N.W. (BZA Appeal No. 16649). In her appeal, Ms. Diskan stated that "[b]ecause of [the] height of [the proposed] tower the application should have been referred to the BZA and to the mayor for an exception." Exh. 16 (Attach. A thereto). Ms. Diskan appealed in her capacity as Chair of Advisory Neighborhood Commission 3E ("ANC"). Exh. 16 (Attach. C thereto).

3. On October 5, 2000, the Acting Director of DCRA issued a Notice to Rescind and Cancel Building Permit No. B425271 and ten other related building and plumbing permits. The Notice to Rescind and Cancel cited five "errors identified in the original permit review process that resulted in the erroneous issuance of these permits": (1) insufficient side yard setback, (2) tower height in excess of Height Act limitations, (3) absence of any environmental impact analysis, (4) submitting an application for a construction permit without a Certificate of Authority to transact business in the District of Columbia, and (5) applying for building permits without having registered with the Office of Tax and Revenue.<sup>2</sup> Exh. 5.

4. The Notice to Rescind and Cancel provided that the "decision to cancel and rescind these invalid permits will become effective at 5 pm on Tuesday October 10, 2000, unless, prior to 12 noon that same day, I receive written statements, evidence, or documentation . . . demonstrating that the errors I cited did not take place." Exh. 5. By letter to the Acting Director of DCRA dated October 10, 2000, John J. Brennan, III, Esq. and Robert Clayton Cooper, Esq., writing on behalf of "American Tower Corporation," challenged the Acting Director's stated reasons for rescission and cancellation and requested that construction of the antenna tower be authorized to continue. Exh. 22 (attachment thereto).

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<sup>2</sup> The Notice to Rescind and Cancel was mailed to "American Tower Corp." in Massachusetts, "American Tower Systems" in Virginia, and "American Tower" in the District of Columbia, as well as to other entities and individuals. Exh. 5.

5. On October 10, 2000, the Acting Director of DCRA issued a Final Notice Rescinding and Canceling the eleven building and plumbing permits that had been the subject of the Notice to Rescind and Cancel. Pursuant to the Final Notice Rescinding and Canceling, the Notice to Rescind and Cancel would "become effective as of 5:00 p.m. October 10, 2000," and work at the site was to cease by 7:00 p.m. on October 12, 2000. The Final Notice Rescinding and Canceling provided notice of the right to appeal the "inadequate side yard setback" issue to this Board:

Please be advised that you have a right to challenge this Notice. In order to exercise this right, you must appeal the portion of the Notice that is based upon the inadequate side yard setback to the Board of Zoning Adjustment. The remaining issues are to be appealed to the Board of Appeals and Review.

In order to exercise this right, you must file written requests for hearings with the appropriate Board. A timely appeal to the Board of Zoning Adjustment must be filed with the Board at 441 4th Street, N.W., Suite 210 South, Washington, DC 20001, (202) 727-6311. . . . Exh. 16 (Attach. G thereto).

6. By letter dated October 25, 2000, on behalf of "American Towers, Inc.," Mr. Cooper requested that the Board stay the proceedings in BZA Appeal No. 16649, which was still pending. He explained:

The request for the Stay is simple. The underlying matters from which the ANC has filed this Appeal, are either moot or are otherwise presently before the U.S. District Court as Civil Action # 00-2436 (PLF). That pending case, brought by American Towers, Inc. against the District of Columbia, seeking a judicial determination that the Permit(s) to construct a telecommunications Tower were unlawfully and illegally revoked by the D.C. Department of Consumer and Regulatory Affairs on October 10, 2000. . . . Exh. 24 (Exh. 1 thereto).

7. Similarly, by letter to the Board dated October 26, 2000, Jill Diskan requested "that ANC 3E's request for an expedited hearing on our Appeal be placed on hold, pending the outcome of American Tower Systems lawsuit against the District government in the Federal courts." Exh. 24 (Exh. 2 thereto).

8. By letter dated October 30, 2000, Jerrily R. Kress, FAIA, Director of the Office of Zoning, informed Mr. Cooper of Ms. Diskan's request that her appeal

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"be placed on hold pending the outcome of the American Tower, Inc. lawsuit in District Court." Ms. Kress stated: "[i]t is almost certain that this request will be granted." She then advised Mr. Cooper: "[i]n the interest of maintaining your options, the Office of Zoning recommends American Tower Systems, Inc. file an appeal based on the revocation of the permits for the tower." Exh. 24 (Exh. 3 thereto). Mr. Cooper has represented to the Board that he never received Ms. Kress' letter and that he did not become aware of the letter until receiving a copy in early 2003. Exh. 24 at 3.

9. By letter dated September 6, 2001, Ms. Kress informed Mr. Brennan: Please be advised that the Office of Zoning will honor your telephone request made on September 5, 2001, requesting that the scheduling of the Board of Zoning Adjustment appeal hearing in the above-referenced case ["BZA Application No. 16649 – American Tower Systems"] be postponed until the recently filed court proceedings in this matter are concluded. Exh. 24 (Exh. 5 thereto).

10. In a motion filed on or about December 20, 2000 in the United States District Court for the District of Columbia in *American Towers, Inc. v. The Honorable Anthony Williams, et al.* (Civ. No. 00-2436 (PLF)), counsel for the District of Columbia ("District") stated:

Plaintiff [American Towers] was informed that the side-yard setback issue could be appealed to the BZA and the remaining grounds for rescission to the BAR. Amend Cmpl. At Exh. 11. In fact, plaintiff has filed appeals with both bodies. Plaintiffs cannot now seek to have this Court replace the appropriate District body as the forum for resolution of this dispute. Exh. 24 (Exh. 4 thereto).<sup>3</sup>

11. Subsequently, in a motion to dismiss filed on October 17, 2002 in the D.C. Superior Court in *American Towers, Inc. v. District of Columbia* (Civ. No. 02-2183), counsel for the District stated: "Under District of Columbia law, plaintiff is required to seek review of DCRA's decision in the appropriate administrative

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<sup>3</sup> In its decision granting the motion to dismiss, the district court acknowledged, but did not appear to rely upon, the District's representation that American Towers had appealed to this Board:

Since American Tower does not contest the fact that it has been provided with post-deprivation procedures – indeed, it currently is taking advantage of the District's administrative procedures by appealing the rescission to the Board of Zoning Appeals [sic] and to the Board of Appeals and Review, see Defs.' Suppl. Memo. at 8 – the question for the Court to decide on this motion is whether the notice sent by the District and the opportunity for hearing provided before rescission were sufficient to comport with due process.

Exh. 10 at 4.

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tribunals. Plaintiff has in fact brought such administrative appeal in the Board of Administrative Appeals [sic] ("BAR") but has not sought review in the Board of Zoning Adjustment ("BZA")." Exh. 26 (Motion at 1-2).

12. By letter dated November 1, 2002, Ms. Diskan informed Ms. Kress that BZA Appeal No. 16649 was "being withdrawn as moot (without prejudice in the event the permits in question were ever reactivated), in light of the official rescission of the permits on October 10, 2000." The letter shows that a copy was mailed to Mr. Cooper by first-class mail. Exh. 16 (Attach. E. thereto).

13. On January 10, 2003, American Towers, Inc. ("American Towers" or "Appellant") filed the instant appeal --BZA Appeal No. 16990 -- challenging DCRA's October 5, 2000 decision rescinding and canceling Building Permit No. B425271 (and the related permits). Exh. 1. Appellant's primary contention on appeal is that "the final building permit application and related approved drawings" did not create or provide for a side yard, and "therefore none is required." Exh. 2. In its "Statement of Ag[g]rievement," filed on January 10, 2003, with its appeal to the BZA, American Towers stated:

This Appeal is being filed in order for the Appellant to preserve its earlier exercised exhaustion of administrative remedies. It was previously understood and agreed by the Appellant and the BZA, that the previously pending action (BZA Case #16649) would encompass all issues related to that case, including the side yard issue, and would be stayed pending the resolution of all matters before the U.S. District Court. However, despite that understanding, the matter has since been withdrawn and dismissed. So, in order to preserve its position based upon the status-quo, prior to that dismissal, Appellant American Towers submits this appeal, and requests that all matters before the BZA be stayed pending resolution of all judicial proceedings. Exh. 2.

### CONCLUSIONS OF LAW AND OPINION:

One who is aggrieved by a zoning decision must file a "timely appeal" to the Board. 11 DCMR § 3112.2. The District of Columbia Court of Appeals has held that the requirement "that an appeal be timely is jurisdictional," and that the Board lacks the power to consider an untimely appeal. *Waste Management of Maryland, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 775 A.2d 1117, 1121 (D.C. 2001). The Court has described the "limit of timeliness" as "two months between notice of a decision and appeal therefrom," absent "exceptional circumstances substantially impairing the *ability* of an aggrieved party to appeal."

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Id. at 1122 (emphasis in original); *accord Sisson v. District of Columbia Bd. of Zoning Adjustment*, 805 A.2d 964, 969 (D.C. 2002).<sup>4</sup>

Whether Appellant is appealing from the Notice to Rescind and Cancel dated October 5, 2000, as American Towers has stated (Exh. 1 & 5), or from the Final Notice Rescinding and Canceling dated October 10, 2000, as DCRA has stated (Exh. 16, Mem. at 1 & n.1), the appeal is untimely. The record in this case shows that Appellant had notice of the DCRA's October 5, 2000 decision on or before October 10, 2000, the date of Mr. Brennan and Mr. Cooper's letter challenging the Acting Director's stated reasons for the proposed rescission and cancellation. The record in this case also shows that Appellant had notice of DCRA's October 10, 2000 decision on or before October 25, 2000, the date of Mr. Cooper's letter to Ms. Kress stating that the permits for the tower "were unlawfully and illegally revoked by the D.C. Department of Consumer and Regulatory Affairs on October 10, 2000." Moreover, DCRA's October 10, 2000 decision expressly informed Appellant that "[i]n order to exercise" its "right to challenge this Notice," it had to "appeal the portion of the Notice that is based upon the inadequate side yard setback to the Board of Zoning Adjustment."

It follows that the "limit of timeliness" for appealing to the Board from DCRA's October 10, 2000 revocation decision was reached not later than December 25, 2000, *i.e.* two months after the last possible date (*i.e.* October 25, 2000) that Appellant could have received notice of the revocation decision. Therefore, in filing BZA Case #16990 on January 10, 2003, Appellant filed more than two years late.

In its opposition to DCRA's January 30, 2003 motion for dismissal, Appellant states:

It was clear from 2000 to 2002 that the parties were in full agreement to stay all action before the BZA pending resolution of the related judicial proceedings, and that agreement and understanding should not now be disturbed. This Appeal presents the same or similar issues, parties and property presented in the ANC Appeal.

Opposition at 5. However, an agreement among the parties to stay a pending appeal from DCRA's administrative decisions to issue permits for the proposed tower (BZA Case #16649) would not have served to extend the time limit for appealing DCRA's *subsequent* administrative decisions to revoke the permits for

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<sup>4</sup> The Zoning Commission's recent rulemaking setting 60 days as the time limit for appeals to the Board did not become effective until February 7, 2003, and, therefore, is inapplicable to this appeal.

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the proposed tower (BZA Case #16990). Further, Appellant's decision to appeal the revocation of the permits in the United States District Court did not somehow relieve it of its responsibility to properly file an appeal before the BZA. The fact that American Towers "chose to concentrate on avenues that reasonably may have appeared more promising than an appeal [to the BZA] does not excuse its delay" in noting such an appeal. *Waste Management*, 775 A.2d at 1123.

Appellant contends that "[i]t was previously understood and agreed by the Appellant and the BZA, that [BZA Case #16649] would encompass all issues related to that case, including the side yard issue," and further contends that, following the dismissal of that action, Appellant filed BZA Case #16990 "in order to preserve its position based upon the status-quo." But whatever Appellant's understanding of the status quo, it is clear from Ms. Kress' October 30, 2000 letter that there was no agreement to treat BZA Case #16649 as an appeal from DCRA's decision to revoke the permits. That letter recommended that American Tower Systems, Inc., "[i]n the interest of maintaining [its] options . . . file an appeal based on the revocation of the permits for the tower." Such a recommendation would have been unnecessary if the BZA were treating Case No. 16649 as an appeal of DCRA's decision to revoke the permits. Moreover, it does not make sense to, as American Towers contends, treat Appeal No. 16649 as an appeal from both the issuance and the revocation of the same permits. In fact, the timing is irreconcilable. The permits were revoked on, at the earliest, October 5, 2000. Appeal No. 16649 was filed on September 18, 2000. There is no way that Ms. Diskan, when she filed the appeal, could have intended it to apply to the revocation of the permits -- an action which had not yet occurred.

American Towers' injecting itself into another party's appeal of a related, but clearly different matter, could not substitute for filing its own appeal with the BZA. However, in support of its position that it could rely on its involvement in BZA Case #16649 as the functional equivalent of its own appeal, Appellant also relies on a statement made by an attorney for the District, in a motion filed in the U.S. District Court on or about December 20, 2000, that Appellant *had* filed an appeal with the Board. Appellant cites this incorrect statement as evidence of the parties' "mutual understanding" that American Towers' "responsibilities with respect to the BZA had been satisfied as a result of their injection into the then pending ANC Appeal." The District's statement, however, appears to reflect not an "understanding" but a misunderstanding as to whether American Towers had appealed to the Board. And even if the parties had agreed to treat BZA Case #16649 as including an appeal by American Towers, such an agreement, by itself, could not satisfy the Board's jurisdictional requirement that American Towers file a timely appeal. Nothing in the record of this case shows that the Board was ever informed prior to January 10, 2003 -- by *any* party -- that BZA Appeal No. 16649

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should have been deemed to include (1) an appeal by American Towers or (2) an appeal from DCRA's decision to revoke the permits.

Finally, even if there had been some equitable reason, based on the existence of BZA Appeal No. 16649, for tolling the period during which American Towers could file an appeal from DCRA's revocation decision, the tolling would have ended when Appellant received notice of the November 1, 2002 withdrawal of BZA Appeal No. 16649. The letter of withdrawal shows that it was sent to Mr. Cooper by first-class mail, and American Towers does not contend that it failed to receive the letter prior to November 10, 2002. In waiting until January 10, 2003 to file its appeal, American Towers waited for more than two months after it received notice that the ANC had withdrawn its appeal. Therefore, even if the period for appealing had been tolled until American Towers received notice of the withdrawal of the ANC's appeal, American Towers' appeal would still have been untimely. Because this appeal will be dismissed as untimely, American Towers' request for a stay is now moot.

For the reasons stated above, it is hereby **ORDERED** that (1) DCRA's motion to dismiss is **GRANTED** and that this appeal is therefore **DISMISSED**, (2) American Towers' request for a stay is **DENIED**, and (3) American Towers' motion for rehearing is **DENIED** without prejudice to its right to move for reconsideration or rehearing pursuant to 11 DCMR § 3126.2.

**VOTE: 3-0-2** (Carol J. Mitten, David A. Zaidain, Geoffrey H. Griffis to deny, Curtis L. Etherly, JR. and the Third Mayoral Appointee not present, not voting)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member has approved the issuance of this Decision and Order.

**FINAL DATE OF ORDER: JUN 25 2003**

PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL. LM/rsn



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 16991-A of Government of the District of Columbia, Office of the Chief Technology Officer**, pursuant to 11 DCMR § 3104.1, for a special exception to replace and operate a support structure (150—foot monopole) and telecommunications facility as part of the District's emergency communications network under section 212 (section 2520) (Antenna, Other Than Commercial Broadcast Antenna), in the C-2-A District at premises 1700 Rhode Island Avenue, N.E. (Square 4134, Lot 800).

**HEARING DATE:** March 11, 2003

**DECISION DATE:** March 11, 2003 and June 3, 2003

**MODIFICATION ORDER**

**SELF CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2

The Board previously approved the Application on March 11, 2003. In accordance with 11 DCMR Section 3129, the Applicant has requested a minor modification to the approved plans. Specifically, the Applicant requests approval of an equipment shelter for equipment associated with the facilities. Previously, the plans called for this equipment to be located inside the Police Department's building. The Office of Planning (OP) submitted a report stating that it had no objections to the modifications.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5B, which is automatically a party to this application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under §§ 212 and 2520. No persons or entities appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, a decision by the Board to grant this application would not be adverse to any party.

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Based upon the record before the Board and having given great weight to the ANC and OP, the Board concludes that the Applicant has met the burden of proof, pursuant to §§ 3104.1, and 212, and 2520, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED SUBJECT** to the following **CONDITIONS**:

1. There shall be brick veneer applied to the external surface of the telecommunications shelter.
2. A revised site plan shall be submitted that illustrates the modifications made to the location of the structure and parking.

**VOTE:**        **3-0-2**        (Geoffrey H. Griffis, David A. Zaidain and Carol J. Mitten, to approve, Curtis L. Etherly, Jr. and Ruthanne G. Miller not hearing the case, not voting).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** JUN 13 2003

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE

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GROUND FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17008 of Gideon Baptist Church**, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, a variance from the open court requirements under section 406, and a variance from the off-street parking requirements under section 2116, to allow the construction of a new church in the R-3 District at premises 901 Ingraham Street, N.W. (Square 2998, Lot 7).

Note: The Board amended the application to require relief from section 2116 (location of parking spaces), and deleted the need for variance relief from section 404 (rear yard).

**HEARING DATE:** June 3, 2003  
**DECISION DATE:** June 3, 2003 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4D, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 4D. ANC 4D submitted a letter in support of the application. The OP submitted a report in support of the application. The Department of Transportation submitted a memorandum stating no objection to the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and Office of Planning reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 403, 406 and 2116, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying

with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITION**:

1. The Applicant, and any successor church, shall provide twenty-five (25) parking spaces at an off-site location.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

**VOTE: 5-0-0**

(Geoffrey H. Griffis, Curtis L. Etherly, Jr.,  
Ruthanne G. Miller, David A. Zaidain, and  
James H. Hannaham to grant)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring Board member has approved the issuance of this order.

**FINAL DATE OF ORDER: JUN 10 2003**

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR

STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17017 of Chinatown East LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, a variance from the rear yard requirements under section 404, a variance from the Downtown Development (DD) District Chinatown provisions under section 1705, and variances from floor area ratio (FAR) requirements under sections 402, and 1707, and pursuant to 11 DCMR § 3104.1, special exceptions from the roof structure provisions under section 411, to construct an apartment building in the DD/R-5-E District at premises 809 – 813 6th Street, N.W. (Square 485, Lot 46).

**HEARING DATE:** June 3, 2003  
**DECISION DATE:** June 24, 2003

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register and by mail to the Applicant and Lessee, Advisory Neighborhood Commission (ANC) 6C, and to owners of all property within 200 feet of the property that is the subject of this application. The application was referred to the Office of Planning (OP) for review and report.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to the Lessee, Advisory Neighborhood Commission (ANC) 6C, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 6C.

ANC 6C submitted a letter in support of the application. The OP submitted a report in support of the application. The Downtown Cluster of Congregations also submitted a letter in support.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for special exceptions pursuant to 11 DCMR §§ 3104.1 and 411 and a variance under 11 DCMR § 3103.2 from the strict application of the requirements of §§ 402, 403, 404, 1705 and 1707. The Board considered a request for party status from one person

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who appeared at the public hearing. The Board determined that the request did not satisfy the requirements under subsection 3106.2, for being granted party status. The Board denied the request for party status. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the ANC and the Office of Planning reports filed in this case, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR §§ 3104.1 for special exceptions under section 411, that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

The Board also concludes that the applicant has met its burden of proof under 11 DCMR §§ 3103.2, 402, 403, 404, 1705 and 1707, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

**VOTE:**       **5-0-0** The Board granted approval of variances from the lot occupancy, rear yard, FAR limits, and Chinatown preferred use provisions and roof structure set-back provisions (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller, David A. Zaidain and Peter G. May to approve).

**VOTE:**       **3-2-0** The Board granted special exception approval to allow the roof structure to have walls of unequal height (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller to approve; Peter G. May and David A. Zaidain to deny).



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**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member has approved the issuance of this Order.

**FINAL DATE OF ORDER:** June 26, 2003

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY

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**ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17019 of Steven A. Seelig and Charlet Wang**, pursuant to 11 DCMR § 3104.1, for a special exception to allow a two car garage addition to a single family detached dwelling under section 223, not meeting the side yard (section 405) requirement, in the R-2 District, at premises 3934 McKinley Street, N.W. (Square 1747, Lot 60).

Note: The Board determined at the public hearing that relief from the rear yard requirement (section 404) is not needed.

**HEARING DATE:** June 17, 2003

**DECISION DATE:** June 17, 2003 (Bench Decision)

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3G and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3G, which is automatically a party to this application. ANC 3G submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under § 223. No persons or entities appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further

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concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

**VOTE:**        **5-0-0**        (Geoffrey H. Griffis, David A. Zaidain, Curtis L. Etherly, Jr., Ruthanne G. Miller, and John G. Parsons to approve).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** JUN 25 2003

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE

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§ 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17023 of Chadwick LLC**, pursuant to 11 DCMR § 3104.1, for special exceptions to construct a new residential development under section 353, and to consider multiple buildings as a single building under subsection 410.12, and pursuant to 11 DCMR § 3103.2, a variance from the floor area ratio requirements under section 402, and a variance from the lot area requirements under section 401, to allow the construction of 119 new single family row dwellings in the R-5-A District at premises 4214-4216 Martin Luther King, Jr., Avenue, S.W., 5-165 Danbury Street, S.W., 4021 South Capitol Street, S.W., and 132-152 Danbury Street, S.W. (Square 6201, Lots 819-843, and Square 6223, Lots 804-809).

**HEARING DATE:** June 17, 2003  
**DECISION DATE:** June 17, 2003 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 8D, and to owners of all property within 200 feet of the property that is the subject of this application. The application was referred to the Office of Planning (OP) for review and report.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 8D, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 8D. ANC 8D submitted a letter in support of the application. The OP submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for special exceptions pursuant to 11 DCMR §§ 3104.1, 353, and 410.12, and a variance under 11 DCMR § 3103.2 from the strict application of the requirements of §§ 401 and 402. One person submitted a request for party status. The Board considered the request, but found it did not satisfy the requirements for party status under subsection

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3106.2. The Board denied the request for party status. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the ANC and the Office of Planning reports filed in this case, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR §§ 3104.1 for special exceptions under sections 353 and 410.12, that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

The Board also concludes that the applicant has met its burden of proof under 11 DCMR §§ 3103.2, 401 and 402, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

**VOTE:**        **5-0-0** (Curtis L. Etherly, Jr., Geoffrey H. Griffis, Ruthanne G. Miller, David A. Zaidain, and John G. Parsons to approve).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member has approved the issuance of this Order.

**FINAL DATE OF ORDER:**        JUN 25 2003   

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES

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PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJSUTMENT**

**Application No. 17025 of Rouzbeh E. Mazanderan**, pursuant to 11 DCMR § 3103.2, for a variance from the lot area and lot width requirements under section 401, a variance from the lot occupancy requirements under section 403, and a variance from the open court requirements under section 406, to allow the construction of a flat (two family dwelling) in the R-4 District at premises 1627 Marion Street, N.W. (Square 444, Lot 131).

**HEARING DATE:** June 24, 2003  
**DECISION DATE:** June 24, 2003 (Bench Decision)

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2C, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 2C. ANC 2C submitted a letter in support of the application. The OP submitted a report recommending approval of the variances from the lot area, lot width and court width requirements, and denial of the variance from lot occupancy requirements.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and Office of Planning reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 401, 403, and 406, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent,

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purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED**.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

**VOTE:**       **4-0-1**           (Geoffrey H. Griffis, Peter G. May, Ruthanne G. Miller and David A. Zaidain to grant, Curtis L. Etherly, Jr. not present not voting).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring Board member has approved the issuance of this order.

**FINAL DATE OF ORDER:** JUN 25 2003

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE

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§ 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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3	DCMR ELECTIONS & ETHICS (JUNE 1998) .....	\$20.00
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